

REMARKS

Claims 2 and 4-22 have been cancelled. Claims 1 and 30 have been amended to include the limitations of Claim 22. No new matter is added. Upon entry of this amendment, Claims 1, 3 and 23-30 will be under examination. Consideration of the present application is respectfully requested in view of the following remarks.

Priority

In the Non-Final Office Action mailed January 30, 2008, the Examiner acknowledged that there is support in U.S. Provisional Patent Application No. 60/092,570 (hereinafter, “the ‘570 application”) for administration of a secretory phospholipase A2 inhibitor in order to modify beta-amyloid vasoactivity. However, the Examiner maintained that there is no support in the ‘570 application for the claimed limitation of treating cerebral amyloid angiopathy or vascular amyloidosis with a phospholipase A2 inhibitor. Applicants respectfully disagree and request that the present claims be afforded the benefit of the filing date of the application.

As acknowledged by the Examiner, the ‘570 application adequately supports a method of modifying beta-amyloid-induced vasoactivity using a sPLA2 inhibitor, specifically oleyloxyethylphosphocholine. It was known in the art that beta-amyloid vasoactivity can result in increased beta-amyloid formation and deposition. (Exp. Neurol. 1998: 150(1):159-68, submitted in Supplemental IDS filed herewith). Therefore, one of ordinary skill in the art would have recognized that the ability to modify beta-amyloid-induced vasoactivity would be inherent in any disease or disorder where beta-amyloid formation and deposition were known to occur. The diseases and disorders recited in claims 1 and 30 were known, at the time of filing, to involve formation and deposition of beta-amyloid. Therefore, one of ordinary skill in the art would have recognized that the ability to modify beta-amyloid-induced vasoactivity would be applicable to the vascular diseases and disorders recited in claims 1 and 30. In order to comply with the requirements of 35 U.S.C. § 112, first paragraph, an application need not describe what is well known in the art. Further, in order to be entitled to an earlier priority date under 35 U.S.C. §§ 119, 120, or 365(c), each claim limitation need not be expressly taught, especially if one of ordinary skill in the art would have recognized the limitation as being inherent in the disclosure of the originally filed application. *See M.P.E.P. § 2163(I)(3)(b).* For at least the foregoing, Applicants respectfully submit that the ‘570 application provides adequate support for

the limitation of modifying beta-amyloid-induced vasoactivity in cerebral amyloid angiopathy or vascular amyloidosis and request that the present claims be afforded the benefit of the filing date of the '570 application.

Claim Rejections - 35 U.S.C. § 112, first paragraph

In the Non-Final Office Action mailed January 30, 2008, the Examiner rejected claims 1, 3 and 30 under 35 U.S.C. § 112, first paragraph as lacking enablement. The Examiner alleges that the specification does not provide enablement for modifying beta-amyloid-induced vasoactivity in individuals with Alzheimer's Disease (AD) or other vascular related disorders comprising administering any and all sPLA₂ inhibitors other than oleyloxyethylphosphocholine. Applicants respectfully submit the amendments to the claims obviate the rejection.

In an effort to advance prosecution, Applicants have amended claims 1 and 30 to recite the specific sPLA₂ inhibitor, oleyloxyethylphosphocholine. As noted by the Examiner, the specification is enabled for modifying beta-amyloid-induced vasoactivity in individuals with Alzheimer's Disease or other vascular-related disorders comprising administering oleyloxyethylphosphocholine. For at least the foregoing, Applicants submit the rejection under 35 U.S.C. § 112, firs paragraph has been overcome and respectfully request that it be withdrawn.

Claim Rejections - 35 U.S.C. § 102(a)

In the Non-Final Office Action mailed January 30, 2008, the Examiner rejected claims 1, 3, 23, 24, and 27-30 under 35 U.S.C. § 102(b) as being anticipated by Watanabe (WO 99/25340). Applicants respectfully submit that the amendments to the claims overcome the rejection.

The Watanabe application is prior art under 35 U.S.C. § 102(b) as of its publication date, May 27, 1999. The present application is a national phase application of International Application No. PCT/US99/15497 (hereinafter "the '497 application"). The '497 application has an international filing date of July 13, 1999. In accordance with 35 U.S.C. § 363 an international application designating the United States will have the effect, as of its international filing date under article 11 of the PCT, as a national application for patent regularly filed in the Patent and Trademark Office. Therefore the effective filing date of the present application is July 13, 1999. The Watanabe application was not published more than one year prior to the effective filing date of the present application and therefore is not a valid prior art reference under 35 U.S.C.

§ 102(b). Applicants assume the citation of Watanabe under 35 U.S.C. § 102(b) was in error and will address the rejection under 35 U.S.C. § 102(a).

The Examiner alleges that Watanabe teaches a method for the prevention of Alzheimer's disease by administering to a human in need thereof an effective amount of a substituted tricyclic sPLA2 inhibitor. Watanabe does not teach a method for modifying beta-amyloid-induced vasoactivity in an individual with Alzheimer's disease comprising administering an effective amount of oleyloxyethylphosphocholine. Applicants have amended claims 1 and 30 to recite the specific sPLA2 inhibitor oleyloxyethylphosphocholine, thereby obviating the rejection. Accordingly, Applicants respectfully request the rejection under 35 U.S.C. § 102(a) be withdrawn.

Claim Rejections - 35 U.S.C. § 102(e)

In the Non-Final Office Action mailed January 30, 2008, the Examiner rejected 1, 3, 23, 24 and 27-30 under 35 U.S.C. section 102(e) as being anticipated by Watanabe (U.S. Patent No. 6,436,983, hereinafter "the '983 patent"). Applicants respectfully submit that the '983 patent is an invalid reference under 35 U.S.C. § 102(e).

The '983 patent issued from a national phase application of International Application No. PCT/US98/24234 (hereinafter "the '234 application"). The '234 application has an international filing date of November 14, 1998. Since the '234 application was filed prior to November 29, 2000, the '234 application is prior art under 35 U.S.C. § 102(e) as of its § 371 date. *See* M.P.E.P. § 706.02(f)(1). The § 371 date of the '234 application is April 10, 2000. Therefore the '234 application is not a valid prior art reference under 35 U.S.C. § 102(e), and Applicants respectfully request the rejection be withdrawn.

Applicant has not addressed each specific rejection of the claims under 35 U.S.C. § 103(e) because Applicant submits that the claims are allowable over Watanabe and the '983 patent, as discussed above. Applicant has not acquiesced to any such rejections and reserves the right to address the patentability of any claims in the future.

CONCLUSION

The foregoing is submitted as a full and complete response to the Non-Final Office Action mailed January 30, 2008, and early and favorable consideration of the claims is requested. If the Examiner believes any informalities remain in the application that may be corrected by Examiner's amendment, or there are any other issues which can be resolved by telephone interview, a telephone call to the undersigned agent at (404) 572-2447 is respectfully solicited.

No further fees are believed to be due in connection with this response. The Commissioner is hereby authorized to charge any underpayment or credit any overpayment of fees to Deposit Account No. 11-0980.

Respectfully submitted,

/F. BRENT NIX/

F. Brent Nix
Reg. No. 59,004

King & Spalding LLP
1180 Peachtree Street N.E.
Atlanta, GA 30309-3521
(404) 572-2447